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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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12 Plaintiff,) Case No. CV
13 v.) SELF-REPRESENTATION ORDER
14)
15 Defendant.)
16 _____)
17

18 One or more of the parties to this action has elected to appear pro se. Persons
19 appearing before this Court are not required to retain the services of a lawyer or
20 obtain the advice of counsel. Individual litigants may represent themselves pro se,
21 but corporations and associations must be represented by counsel. See Church of the
22 New Testament v. United States, 783 F.2d 771, 773 (9th Cir. 1986) (unincorporated
23 associations); In re Highley, 459 F.2d 554, 555 (9th Cir. 1972) (corporations). In
24 addition, non-attorney litigants may not represent other individual litigants or trusts
25 for which they serve as trustee. See Johns v. County of San Diego, 114 F.3d 874,
26 876 (9th Cir. 1997) (minor children); C.E. Pope Equity Trust v. United States, 818
27 F.2d 696, 697-98 (9th Cir. 1987) (trust); McShane v. United States, 366 F.2d 286,
28 288 (9th Cir. 1996) (other litigants). A partner may not represent his or her own

1 interest in a partnership pro se, and a sole shareholder may not represent a
2 corporation. See In re Am. West Airlines, 40 F.3d 1058, 1059 (9th Cir. 1994) (per
3 curiam) (partner); United States v. High Country Broad. Co., Inc., 3 F.3d 1244, 1245
4 (9th Cir. 1993) (per curiam) (shareholder).

5 Proceeding pro se has significant risks, and this Court wishes to make some
6 of those risks known at the outset of this proceeding:

- 7 ● Generally speaking, non-attorney litigants are less likely to be
8 victorious than those assisted by counsel.
- 9 ● The opposing party may have a lawyer, and that lawyer's duty is to
10 achieve victory for his or her client. He or she will take every step
11 legally permissible to that end.
- 12 ● The Court is a neutral adjudicator of the law. The role of the judge is to
13 resolve disputes arising between the parties in accordance with the law.
14 As such, the judge cannot assist you, cannot answer your legal
15 questions, and cannot take sides in the dispute. Nor can any members of
16 the judge's staff.
- 17 ● You will be proceeding alone in a complex area where experience and
18 professional training are greatly desired.

19 Simply stated, when you elect to proceed pro se, you are on your own and
20 become personally responsible for litigating your action in accordance with the rules.
21 Practice in the federal courts is governed by the Federal Rules of Civil Procedure.
22 You **must** become familiar with these rules. You will be held to the same standards
23 as a lawyer as far as complying with the court procedures and the rules and
24 regulations of the court system.

25 Because litigating an action in federal court often requires a great deal of time,
26 preparation, knowledge, and skill, this Court highly recommends against proceeding
27 without the assistance of counsel. Some attorneys will represent clients on a
28 contingency fee basis, whereby the fees associated with representation are subtracted

1 from a judgment in favor of the client.¹ However, should you wish to continue
2 without counsel – fully understanding the risks – you are hereby ordered to carefully
3 review the remainder of this Order, as it contains instructions for proceeding in this
4 Court which **must** be followed.

5 This Order, while not comprehensive – and not a substitute for fully
6 familiarizing yourself with the Federal Rules of Civil Procedure, the Federal Rules of
7 Evidence, the Local Rules for the United States District Court for the Central District
8 of California, the Orders of this Court, including the Court’s Standing Order,
9 Scheduling and Case Management Order, and Civil Trial Order, as well as federal
10 and state case law applicable to this action – is intended to bring certain aspects of
11 law and motion practice to your attention at an early stage in the litigation to remedy
12 problems commonly associated with pro se pleadings.²

13 **Communications with Chambers:** Pursuant to Local Rule 83-2.11, parties
14 **shall refrain** from writing letters to the judge, making telephone calls to chambers,
15 or otherwise communicating with a judge unless opposing counsel is present. You
16 may contact the Courtroom Deputy, at (213) 894-1527, with appropriate inquiries.
17 The Courtroom Deputy is **not** an attorney, and will not provide you with any legal
18 advice. The Courtroom Deputy cannot waive any of the requirements of this, or any
19 other, Order. Should you wish to bring any matter to the attention of the Court, you
20 **must** do so in writing, and file it and serve it on the opposing party.

21 **Jurisdiction:** The Federal Rules of Civil Procedure require that “[a] pleading
22 which sets forth a claim for relief ... shall contain (1) a short and plain statement of
23 the grounds upon which the court’s jurisdiction depends.” Fed.R.Civ.P. 8(a). This
24 District’s Local Rules further provide that “[t]he statutory or other basis for the

25
26 ¹ The Los Angeles County Bar Association Lawyer Referral and Information Service
27 may be able to refer you to a lawyer who may or may not be willing to take your case on a
contingency basis.

28 ² The Local Rules for the United States District Court for the Central District of
California are available on the district court’s website: www.cacd.uscourts.gov.

1 exercise of jurisdiction by this Court shall be plainly stated in ... any document
2 invoking this Court’s jurisdiction.” Local Rule 8-1.

3 **This is extremely important.** Unlike state courts, federal courts are not
4 courts of general jurisdiction, and can only preside over matters authorized by the
5 Constitution and Congress. Bender v. Williamsport Area Sch. Dist., 475 U.S. 534,
6 541, 106 S. Ct. 1326, 1331, 89 L. Ed. 2d 501 (1986). In other words, the party filing
7 the action must **prove** to the Court that jurisdiction over the action exists **before** the
8 Court can reach the merits of the complaint. See Smith v. McCullough, 270 U.S.
9 456, 459, 46 S. Ct. 338, 339, 70 L. Ed. 682 (1926) (A “plaintiff, suing in federal
10 court, must show in his pleading, affirmatively and distinctly, the existence of
11 whatever is essential to federal jurisdiction. . .”).

12 Federal jurisdiction may be alleged either pursuant to 28 U.S.C. section 1331
13 for actions “arising under the Constitution, laws, or treaties of the United States,”
14 otherwise known as “federal question” jurisdiction, or 28 U.S.C. section 1332 as an
15 action “between citizens of different States,” otherwise known as “diversity”
16 jurisdiction.

17 To allege federal question jurisdiction, the complaint should identify which
18 right(s) the plaintiff(s) claim have been violated, and which law, statute, or
19 constitutional amendment provides that right. See Keniston v. Roberts, 717 F.2d
20 1295, 1298 (9th Cir. 1983).

21 Diversity jurisdiction has **two** requirements. First, diversity jurisdiction
22 requires complete diversity of citizenship, that is, all plaintiffs must have a different
23 citizenship from all defendants. See Owen Equipment & Erection Co. v. Kroger,
24 437 U.S. 365, 373, 98 S. Ct. 2396, 2402, 57 L. Ed. 2d 274 (1978). Residence and
25 citizenship are distinct concepts, with significantly different jurisdictional
26 ramifications: “[i]n order to be a citizen of a State within the meaning of the
27 diversity statute, a natural person must both be a citizen of the United States *and* be
28 domiciled within the State.” Newman-Green, Inc. v. Alfonzo-Larrain, 490 U.S. 826,

1 828, 109 S. Ct. 2218, 2221, 104 L. Ed. 2d 893 (1989). “A person’s domicile is her
2 permanent home, where she resides with the intention to remain or to which she
3 intends to return. A person residing in a given state is not necessarily domiciled
4 there, and thus is not necessarily a citizen of that state.” Kanter v. Warner-Lambert
5 Co., 265 F.3d 853, 857 (9th Cir. 2001) (citations omitted). Corporations are citizens
6 of both their state of incorporation and the state in which they have their principal
7 place of business. See 28 U.S.C. § 1332(c)(1); see also New Alaska Dev. Corp. v.
8 Guetschow, 869 F.2d 1298, 1300-01 (9th Cir. 1989). Unincorporated associations
9 are citizens of the states of each member. See Fifty Associates v. Prudential Ins. Co.
10 of Am., 446 F.2d 1187, 1190 (9th Cir. 1970). Second, when jurisdiction is based on
11 diversity of citizenship, district courts do not have original jurisdiction unless a party
12 alleges an amount in controversy exceeding \$75,000. See 28 U.S.C. § 1332(a).

13 Finally, you should understand that it is **insufficient** for a party to merely
14 claim that jurisdiction exists. Sufficient **facts** must be alleged to allow the Court to
15 assess whether it has jurisdiction over the action.

16 **Service:** Service is the formal delivery of a legal pleading. The Federal Rules
17 of Civil Procedure have different requirements for service to be effective depending
18 on the type of entity to be served: service on an individual within the United States is
19 governed by Fed.R.Civ.P. 4(e), corporations and associations must be served in
20 conformity with Fed.R.Civ.P. 4(h), the United States and its agencies must be served
21 pursuant to Fed.R.Civ.P. 4(i), and state and local governmental units require service
22 under Fed.R.Civ.P. 4(j).

23 Time limits for service of the complaint are set forth in Fed.R.Civ.P. 4(m). It
24 is important to promptly and properly serve the opposing party, especially with the
25 summons and complaint when initiating an action, because **failure to serve within**
26 **the time limits specified by the Federal Rules will result in the dismissal of your**
27 **action for lack of prosecution.** You **must** always inform the Court whenever you
28 serve a filing on an opposing party; this is done by filing a proof of service. See

1 Fed.R.Civ.P. 4(l).

2 **Discovery:** Discovery is the mechanism by which the parties to an action
3 collect evidence relating to the case from one another. Certain information is
4 expected to be provided to the other side without a request. See Fed.R.Civ.P. 26(a).
5 If the other side seeks to obtain discovery from you, you must cooperate and provide
6 the information sought on “any matter, not privileged, that is relevant to the claim or
7 defense of any party.” Fed.R.Civ.P. 26(b)(1). The principal forms of discovery
8 envisioned by the Federal Rules are the production and inspection of documents,
9 requests for admissions, depositions and interrogatories. Discovery disputes are
10 resolved by, and should be brought to the attention of, the magistrate judge assigned
11 to the action. Discovery should begin early in the litigation and may commence
12 prior to the Scheduling Conference.

13 **Motions:** Motions are requests to this Court to make a specified ruling or
14 order. The opposing party may file a motion to dismiss your action, pursuant to
15 Fed.R.Civ.P. 12, or a motion for summary judgment pursuant to Fed.R.Civ.P. 56. If
16 the opposing party files and serves a motion on you, you **must** oppose it if you
17 disagree with the requested relief. **Failure to oppose an otherwise properly**
18 **supported motion may result in the Court granting that motion.** See Local Rule
19 7-12. **Depending on the motion, this may result in the dismissal of your case.**

20 To oppose a motion, you **must** present the Court with a statement explaining
21 the basis of your opposition and the legal authority supporting your contentions.
22 You **must** also file any evidence upon which you intend to base your opposition to a
23 motion for summary judgment. Pursuant to Local Rule 7-9, your opposition is due
24 **not later** than twenty-one (21) days before the date designated for the hearing of the
25 motion. If you need additional time to oppose the motion, you **must** file and serve
26 an ex parte application requesting an extension of time **prior** to the date on which
27 your opposition is due, and must demonstrate that the additional time you seek is
28 warranted and that the requested extension is not a crisis of your creation, thus

precluding you from seeking ex parte relief. See Mission Power Eng'g Co. v. Continental Cas. Co., 883 F. Supp. 488, 492 (C.D. Cal. 1995).

Motion to Dismiss: A Fed.R.Civ.P. 12(b)(6) motion to dismiss for failure to state a claim tests the legal sufficiency of the claims asserted in the complaint. A dismissal under Rule 12(b)(6) is proper only where there is either a “lack of a cognizable legal theory” or “the absence of sufficient facts alleged under a cognizable legal theory.” Balistreri v. Pacifica Police Dept., 901 F.2d 696, 699 (9th Cir. 1990). The Court must deny the motion unless it appears that the plaintiff can prove no set of facts that would entitle him to relief. See Conley v. Gibson, 355 U.S. 41, 45-46, 78 S. Ct. 99, 102, 2 L. Ed. 2d 80 (1957). When evaluating a Rule 12(b)(6) motion, the Court must accept all material allegations in the complaint as true and construe them in the light most favorable to the non-moving party. See Barron v. Reich, 13 F.3d 1370, 1374 (9th Cir. 1994). However, the Court is not bound to assume the truth of legal conclusions merely because they are stated in the form of factual allegations. See Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981). Dismissal is proper if a complaint is vague, conclusory, and fails to set forth any material facts in support of the allegations. See North Star Int'l v. Arizona Corp. Comm'n, 720 F.2d 578, 583 (9th Cir. 1983).

Motion for Summary Judgment: Summary judgment may be granted when there are no material facts in dispute between the parties, making a trial unnecessary. To resist summary judgment under Fed.R.Civ.P. 56, you **must** submit affidavits or other documentary evidence, such as depositions and answers to interrogatories, which set forth specific facts showing there is a genuine issue for trial. See Klinge v. Eikenberry, 849 F.2d 409, 411-12 (9th Cir. 1988). Failure to do so may result in the entry of summary judgment against you. You should also note that Rule 56(e) requires that affidavits or declarations shall be made on personal knowledge, set forth facts that are admissible as evidence, and show affirmatively that the affiant is competent to testify to the matters stated therein. **Should you fail to contradict the**

1 **moving party with counter-affidavits, declarations or other evidence, the**
2 **moving party’s evidence may be taken as the truth, and final judgment may be**
3 **entered against you without a trial, thus ending your case. See Rand v. Rowland,**
4 **154 F.3d 952, 960-61 (9th Cir. 1998).**

5 To effectively address a summary judgment motion, you should be aware of,
6 and familiar with, the following United States Supreme Court cases on summary
7 judgment: Celotex v. Catrett, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265
8 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S. Ct. 2505, 91 L. Ed. 2d
9 202 (1986); Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 106 S.
10 Ct. 1348, 89 L. Ed. 2d 538 (1986).

11 **Pro Se Clinic:** The Court may not provide advice to any party, including
12 persons who are not represented by a lawyer. (Such persons are known as “pro se
13 litigants.”) However, this District does have a “Pro Se Clinic” that can provide
14 information and assistance about many aspects of civil litigation in this Court.
15 Public Counsel’s Federal Pro Se Clinic provides free legal assistance to people
16 representing themselves in the United States District Court for the Central District of
17 California. The Pro Se Clinic is located at the Roybal Federal Building and
18 Courthouse, 255 East Temple Street, Los Angeles, California 90012.

19 The Los Angeles Clinic operates by appointment only. You may schedule an
20 appointment either by calling the Clinic or by using an internet portal. You can call
21 the clinic at (213) 385-2977, ext. 270, or you can submit an internet request at the
22 following site: <http://prose.cacd.uscourts.gov/los-angeles>.

23 Clinic staff can respond to many questions with a telephonic appointment or through
24 your email account. It may be more convenient to email your questions or schedule
25 a telephonic appointment. Staff can also schedule you for an in-person appointment
26 at their location in the Roybal Federal Building and Courthouse.


27 In addition, the Court has information of importance to pro se litigants at the
28 “People Without Lawyers” link, <http://prose.cacd.uscourts.gov/>.

1 Pro se litigants may also apply to the Court for permission to electronically
2 file. Form CV-005 is available at [http://www.cacd.uscourts.gov/court-](http://www.cacd.uscourts.gov/court-procedures/forms)
3 [procedures/forms](http://www.cacd.uscourts.gov/court-procedures/forms).

4 The Court's website home page is <http://www.cacd.uscourts.gov>.

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6 **IT IS SO ORDERED.**

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8 Dated: March 12, 2019



MICHAEL W. FITZGERALD
United States District Judge